

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Date [REDACTED]

Signature [REDACTED]

Contact Person: [REDACTED]

Telephone Number: [REDACTED]

Reference to: [REDACTED]

Date: [REDACTED]

Employer Identification Number: [REDACTED]
Key District: [REDACTED]

Dear Applicant:

This refers to your submission of Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. In your letter dated [REDACTED], you have requested that you be considered be exempt as described in section 501(d) of the Code.

The information submitted indicates that you were formed on [REDACTED] by your three members: [REDACTED] and [REDACTED]. Your Charter describes you and your purpose as follows:

The [REDACTED] is a religious group of monastic men living in community. Our goal is to use the rich contemplative heritage of Benedictine tradition to develop our own spiritual lives through contemplation of prayer, and then bring the joy and peace of this contemplative tradition to our brothers and sisters in the world around us.

Each member, called a monk, is asked to take a permanent vow of stability, conversatio morum, obedience, and co-responsibility. A vow of stability obligates a member to persevere in the practice of the spiritual path of the order. A vow of conversatio morum commits a member to the monastic way of life. A vow of obedience chooses a member to live under the rule and a prior and the promise to comply with all demands legitimately made of him. A vow of co-responsibility requires a member to listen and attend constantly to the needs of his brothers and the community.

Your members carry a title to their name of "O.S.B., Ecum." which stands for Order of St. Benedict, Ecumenical. You represent that the O.S.B. title is a designation referring to the person's inclusion in the Benedictine Order by the authority of a free decision to pattern his life after the Rule of St. Benedict. "Ecumenical" refers to your openness to, and tolerance of, the world's religious traditions. You choose the title O.S.B., Ecum. to distinguish yourself from the Catholic Benedictines and to indicate that you are open to any Christian, Catholic or Protestant who wishes to join. As such, you do not limit your members to any one Christian doctrine.

_____ is a professor with Ph.D on religion and his religious affiliation is Catholic. _____ is a writer/editor, an instructor and his religious affiliation is also Catholic. _____ is a computer specialist and his religious affiliation is a Protestant with the _____.

You maintain two bank checking accounts. Your primary checking account is a "house checking account" where members' contributions are deposited and checks were issued for payments of the monthly residential rent, utilities, and living expenses of members. The other checking account was opened in September _____ with a \$_____ deposit but has not been used.

You indicate that all your income is received from outside employment of your three members. However, not all such earnings by each member are donated to you or deposited in the "house checking account. Rather, _____ contributes _____% of his total outside employment income and _____ and _____ each contributes _____% of his total outside employment income.

The submitted financial data covering seven months period beginning at your formation date in _____ through _____, show that you received funds totalling \$_____. _____ all contributed from outside employment earnings by your three members. _____ contributed \$_____. _____ contributed \$_____ and _____ contributed \$_____. For the same period, you paid the total amount of \$_____ for living expenses as follows: \$_____ for rent, \$_____ for food, \$_____ for utilities, and _____ for furniture. _____ contributions of \$_____ were directly paid to the lessor of your leased residence.

In your submitted budget for future years of operation, you show allocation of funds for payment of personal expenses of members such as health insurance, car payments, gas, repairs and insurance, clothing and miscellaneous items.

Section 501(a) of the Internal Revenue Code provides that an organization is described in subsection (c) or (d) shall be exempt from taxation under this subtitle.

Section 501(c) (3) of the Code provides exemption to organizations organized and operated exclusively for religious, educational, charitable or other exempt purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(a)-1(c) of the Income Tax Regulations provides that the words "private shareholder or individual" in section 501 refer to persons having a personal and private interest in the activities of the organization.

Section 1.501(c) (3)-1(c) (1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more exempt purposes specified in section 501(c) (3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c) (3)-1(c) (2) of the regulations provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Section 1.501(c) (3)-1(d) (1) (ii) of the regulations provides that an organization is not organized and operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet the requirements of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creators, shareholders of the organization or persons controlled, directly or indirectly, by such private interests.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U. S. 279 (1945), the Supreme Court of the United States interpreted the requirement in section 501(c) (3) that an organization be "operated exclusively" by indicating that in order to fall within the claimed exemption, an organization must be devoted to exempt purposes exclusively. This plainly means that the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number and importance of truly exempt purposes.

In Beth-El Ministries, Inc. v. U.S., 79-2 U.S.T.C., 9412, the court was asked to determine whether the organization is a religious organization exempt under section 501(c)(3) of the Code. Members donated their salaries to the organization which in turn provided the members with living expenses such as food, clothing, shelter and other benefits. The court found that the organization was not operated exclusively for religious purposes because its net earnings inured to the benefit of members, and thus, was not exempt under section 501(c)(3).

In Church of Modern Enlightenment v. Commissioner, T.C. Memo 1988-312 (July 25, 1988), an organization was formed for religious purposes and to operate a church. The organization's sole source of income was contributions received from its principal officer of his full salaries from outside employment. The organization's funds were used primarily for payment of parsonage expenses and contributions. The parsonage expenses were living expenses of the principal officer and the contributions were payments of the officer's withholding taxes on salaries from outside employment. The Tax Court memorandum indicates that the organization is not exempt under section 501(c)(3) of the Code because the organization is not operated exclusively for religious purposes and that its income inures to the benefit of a private individual. See also Good Friendship Temple v. Commissioner, T.C. Memo 1988-313 9 (July 25, 1988).

In New Life Tabernacle v. Commissioner, T.C. Memo 1982-367 (1982), the petitioner is engaged in conducting weekly worship services, prayer services and Bible study. The petitioner's income consists of contributions from members' salaries from employment in secular jobs and income from social security. Substantially all of the funds are used for the payment of members' living expenses such as food, clothing, housing, utilities, automobile expenses and weekly allowances. The petitioner was held not to qualify for exemption under section 501(c)(3) of the Code because the petitioner's net income inures to the benefit of private individuals.

Your submissions indicate that you were formed and are controlled by, and receive all income from contributions from, your three members. In turn, you direct substantially all of your income and assets for the payment of the living expenses of your three members. The above indicates not only are you serving the private benefit of private individuals, but your income inures to the benefit of private individuals. Therefore, you are not operated exclusively for one or more exempt purposes pursuant to sections 1.501(c)(3)-1(c)(1), 1.501(c)(3)-1(c)(2) and 1.501(c)(3)-1(d)(1)(ii) of the regulations since you have a

substantial non-exempt purpose of operating for the private individuals. See also Better Business Bureau.

You are indistinguishable from the organizations described in Beth-El Ministries, Inc., Church of Modern Enlightenment, Good Friendship Temple, and New Life Tabernacle court cases found not to qualify for exemption under section 501(c)(3) of the Code.

Accordingly, we rule that you do not qualify for exemption under section 501(c)(3) of the Code.

We have also considered your request for classification as a church under section 170(b)(1)(A)(i) of the Code.

In Spiritual Outreach Society v. Commissioner, 927 F.2d 335 (8th Cir. 1981), the appellate court determined that the organization was not a church by adopting fourteen criteria as a guide. These criteria or characteristics are: (1) a distinct legal existence; (2) a recognized creed and form of worship; (3) a definite and distinct ecclesiastical government; (4) a formal code of doctrine and discipline; (5) a distinct religious history; (6) a membership not associated with any church or denomination; (7) a complete organization of ordained ministers ministering to their congregations; (8) ordained ministers selected after completing prescribed courses of study; (9) a literature of its own; (10) established places of worship; (11) regular congregations; (12) regular religious services; (13) Sunday Schools for the religious instruction of the young; and (14) schools for the preparation of its ministers. See also Lutheran Society Services of Minn. v. U.S., 758 F. 2d 1283 (8th Cir. 1985), and American Guidance Foundation, Inc. v. U.S., 490 F. Supp. 304 (D.D.C. 1980).

The court in American Guidance Foundation, Inc., citing Chapman v. Commissioner, 48 T.C. 358 (1967), stated that while some of the fourteen characteristics are minor, others, e.g., the existence of an established congregation served by an organized ministry, the provision of regular religious services and religious education for the young, and the dissemination of a doctrinal code, are of central importance. Further, the court stated that at a minimum, a church includes a body of believers or communicants that assembles regularly in order to worship.

In First Church of in Theo v. Commissioner, T.C.M. 1989-16 (January 10, 1989), the Tax Court upheld the government's position that an organization whose religious purposes were accomplished through the writing, publishing, and distribution of religious literature rather than through the regular assembly of a group of believers to worship together was not a church within

the meaning of section 170(b)(1)(A)(i) of the Code. The Court stated that while the sincerity of the organization's religious purposes was unquestionable, it failed to demonstrate the requisite associational activities necessary to support that it was a church.

Our analysis indicates that you do not have many of the characteristics of churches, as applied by the courts in Spiritual Outreach Society, Lutheran Society Services of Minn., and American Guidance Foundation, Inc. Also, you are indistinguishable from the organization described in First Church of in Theo. that failed to demonstrate the requisite associational activities necessary to support that it was a church.

Therefore, we conclude that you are not a church within the meaning of section 170(b)(1)(A)(i) of the Code.

Finally, we have considered whether you exempt from federal income tax as an organization described under section 501(d) of the Code.

Section 501(d) of the Code provides for the exemption from federal income tax of religious or apostolic associations or corporations, if such associations or corporations have a common treasury or community treasury, even if such associations or corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the taxable income of the association or corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received. See also section 1.501(d)-1(a) of the Income Tax Regulations which merely parallels the statutory language.

Rev. Rul. 78-100, 1978-1 C.B. 162 provides that organizations contemplated by section 501(d) of the Code are those religious organizations or associations that are supported by internally operated businesses in which all the members have an individual interest. Because the organization was supported by members' outside wages earned independently from the organization rather than by an internally operated business, the organization did not qualify for exemption from Federal income tax under section 501(d).

Compare, however, Rev. Rul. 58-328, 1958-1 C.B. 327, and Rev. Rul. 57-574, 1957-2 C.B. 161. The religious organizations in both revenue rulings were engaged in community businesses, and their members were not engaged in business in their individual

capacity but instead worked for the organization, and all property was community owned. Each ruling held the religious organizations were described as exempt under section 501(d) of the Code.

The above indicates that an organization must meet the four requirements for exemption under section 501(d): (1) it is a religious or apostolic corporation; (2) it engages in a business for the common benefit of its members; (3) it maintains a common treasury or community treasury; and (4) its members include in their gross income as dividends received their entire pro rata share of petitioner's taxable income, whether or not such income is actually distributed to them.

The information you have submitted indicates that since formation to date you were not engaged in any community business and your members do not participate in any internally operated community business for their common benefit. Rather, your members are employed or engaged in business activities outside of your organization for which they contribute partial of their outside earnings to you for their common living expenses. Therefore, you fail to meet the complete requirements under section 501(d) of the Code.

You are analogous to the organization described in Rev. Rul. 78-100. Similarly, you are not exempt from federal income tax as an organization described in section 501(d) of the Code.

You are required to file federal income tax returns on Form 1120.

Contributions to you are not deductible under section 170 of the Code.

You have the right to protest our ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your officers. You also have a right to a conference in this office after your statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2)

[REDACTED]

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of the Code provides, in part, that a declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director in Los Angeles, California. Thereafter, if you have any questions about your federal income tax status, including questions concerning reporting requirements, please contact your key District Director.

Sincerely,

[REDACTED]
[REDACTED]
Chief, Exempt Organizations
[REDACTED]

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| Form 1937-A | Initiator | Reviewer | Reviewer | Reviewer | Reviewer | Reviewer |
| CODE | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| Surname | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| Date | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |